

1 Joyce C.H. Tang
2 Leslie A. Travis
3 **CIVILLE & TANG PLLC**
4 330 Hernan Cortez Avenue Ste. 200
5 Hagåtña, Guam 96910
6 Tel: (671) 472-8868/9
7 Fax: (671) 477-2511

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8 **PROCUREMENT APPEAL**
9 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**

10 In the Appeal of
11 Korando Corporation,
12
13 Appellant.

DOCKET NO. OPA-PA-18-002

**APPELLANT KORANDO CORPORATION'S
MOTION TO EXTEND THE TIME TO FILE
COMMENTS TO AGENCY REPORT AND
CONTINUE FURTHER DATES; AND**

REQUEST FOR EXPEDITED DECISION

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17 **I. MOTION TO EXTEND THE TIME TO FILE COMMENTS TO AGENCY
18 REPORT AND CONTINUE FURTHER DATES**

19 Appellant Korando Corporation ("Korando"), by and through its counsel, respectfully
20 requests that the Office of Public Accountability ("OPA") continue all scheduled deadlines in this
21 matter by a period of at least one (1) week.

22 On January 24, 2018, the Department of Public Works ("DPW") filed its Procurement Record
23 which included the following categories of documents: (1) Bid documents, (2) Authorization Letters
24 to release documents to the IFB (and related documents), (3) Pre-Bid Conference Minutes, (4)
25 Addenda, (5) Bid Analysis documents, and (6) Working Documents consisting of Hydarulic
26 Analyses and a Geotechnical Report ("DPW Procurement Record"). The initial Procurement Record
27 consisted entirely of pre-award documents, predating the December 16, 2015 Stipulation and Order to
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1 Rescind Termination (“12/16/15 Stipulation”) that is the subject of this Appeal, and which do not
2 relate to the issues in this Appeal. The issues in this Appeal involve DPW’s late and improper denial
3 of claims Korando submitted due to DPW’s improper termination of Korando and consequent delay
4 of Korando’s execution of the contract of construction of the Bile/Pigua Bridge Replacement (Project
5 No. GU-NH-NBIS(007)) (the “Contract”) under the 12/16/15 Stipulation.
6

7 The Procurement Record produced by DPW on January 24, 2018 was incomplete because it
8 did not contain all documents, emails, and correspondence regarding the issues in the Appeal, relating
9 to DPW’s review and ultimate denial of Korando’s claims, its analysis of Korando’s claims, and its
10 interpretation of and compliance with the 12/16/15 Stipulation.
11

12 Based on the incomplete Procurement Record produced on January 24, 2018, on February 9,
13 2018, Korando filed its Request for Supplementation of the Procurement Record and to Extend the
14 time to File Comments to the Agency Report and Motion Cut-Off Date (“Request to Supplement
15 Record”). On February 26, 2018, the Hearing Officer issued a Decision and Order (“2/26/2018
16 D&O”) granting Korando’s Request to Supplement Record, ordering DPW to supplement the
17 procurement record by no later than 5:00 p.m. on February 28, 2018 and extending the deadline for
18 Korando to file comments to the agency report to 5:00 p.m. on March 7, 2018.
19

20 To date, DPW has supplemented the Procurement Record five (5) times: (1) February 12,
21 2018, (2) February 21, 2018, (3) February 23, 2018, (4) February 27, 2018, and (5) March 2, 2018.
22 Prior to receiving the 3/2/18 Supplement to the Procurement Record, Korando received over twenty
23 thousand (20,000) pages (original Procurement Record and the first four supplements). From the
24 20,000 pages produced, approximately One Hundred Fifty (150) were from documents created after
25 the 12/16/15 Stipulation. Over 99% of the 20,000 pages produced was not relevant to the issues in
26 this Appeal.
27
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1 A chart summarizing the types and number of pages produced from the original Procurement
 2 Record and the 1st through 4th Supplement is provided below:
 3

Date of Production	General Description of Documents	Approximate Pages
1/24/2018 (initial Procurement Record)	<p>Pre-12/16/15 Stipulation documents relating to:</p> <p>Bid Documents; Authorization Letters and Approval; Pre-Bid Meeting Minutes; Bid Analysis and Recommendations; Working Documents such as Hydraulic Analyses and Geotechnical Report</p>	1,057
2/12/2018 Supplement	<p>Pre-12/16/15 Stipulation documents relating to:</p> <p>Purchase Orders;</p> <p>The following documents were generated in March 2016:</p> <p>Rating Reports; Structural Calculations; Repair Photos; Bridge Inspection Reports</p>	162
2/21/2018 Supplement	<p>Pre-12/16/15 Stipulation documents relating to:</p> <p>Task Orders; Invoices for Task Orders; Contract Documents; Amendments; Emails related to Task Orders, Meetings, Submittals, and Design</p>	5,709
2/23/2018 Supplement	<p>Pre-12/16/15 Stipulation documents relating to:</p> <p>Contract Administration Documents (Schedules, Status Reports, Structural Assessment Reports); Correspondence Logs 3/2015-7/2015; Letters regarding Schedule Delays;</p>	7,808

	Nonconformance Reports 2014-2015; Deliverables (Drawings, Calculations, Cost Estimates); Letters re: Pre-Construction, Delays, Phasing Plan, and Extensions 2014-2015; Meeting Minutes 2014-2015; Inspection Reports and Truck Logs 2014-2015; Reports (Bulletin Board, Contractors Daily, Environmental, Inspectors Daily, Labor Compliance Interview, Monthly Apprentice Training, Weekly Construction) 2014-2015; Requests for Information/Clarification; Construction submittals 2014-2015; Design Deliverables	
2/27/2018 Supplement	Pre-12/16/15 Stipulation documents relating to: Abstracts of Title Reports; Easements; Deeds; Offer/Purchase Agreements; Death Certifications for previous owners; Appraisal Reports; Right of Entry Agreements; Correspondence 2014-2015; Stanley Invoices 2014-2015; Stanley Payments 2014-2015	5,543

The fifth supplement, which was received on Friday, March 2, 2018 (“3/2/2018 Supplement”) consists of four (4) CDs with thousands of pages. It is unclear whether the 3/2/2018 Supplement is relevant to the issues in this Appeal, and satisfies DPW’s obligations to produce a complete Procurement Record. Korando has been working diligently to review the documents produced. Due to the volume of the 3/2/2018 production, Korando will need additional time to review the material given its late production past the February 28, 2018 deadline set by the Hearing Officer in the 2/26/2018 D&O. Because most of the 20,000 documents produced by DPW through the 4th Supplement are not relevant to the issues in this Appeal, and due to the late production on 3/2/2018

1 DPW is in violation of the 2/26/2018 D&O. Korando requires an additional one week to properly
2 review the 3/23/2018 Supplement, and until the review is complete, is unable to assess the adequacy
3 of the Procurement Record, determine if further motions are necessary, and properly respond to
4 DPW's Agency Report.
5

6 For this reason, Korando requests an extension of its deadline to respond to the Agency
7 Report, presently scheduled for March 7, 2018, and to file additional motions as necessary, as well as
8 continue all subsequent dates scheduled in this matter by a period of at least one (1) week. The
9 Government has indicated that it does not oppose the requested extension.

10 In the event the Public Auditor and Hearing Officer grant Korando's Motion to Extend Time,
11 the consequent delay may result in continuance of the formal hearing, presently scheduled for April
12 9, 2018. The parties have discussed potential conflicts in the month of April, 2018 and Korando
13 requests a status conference to resolve scheduling conflicts for the final hearing.
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16 **II. REQUEST FOR EXPEDITED DECISION**

17 Because Korando is scheduled to file its Comments to Agency Report on March 7, 2018, and
18 because it has filed this Motion at the earliest possible opportunity given DPW's late supplementation
19 of its Procurement Record on March 2, 2018, Korando requests an expedited decision on this Motion.
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21 Dated this 6th day of March, 2018.
22

23 **CIVILLE & TANG, PLLC**

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25 _____
26 JOYCE C.H. TANG
27 LESLIE A. TRAVIS

28 *Attorneys for Appellant Korando Corporation*